EXHIBIT A.

Opinion of the United States Court of Appeals for the Eighth Circuit.

No. 15942.

I. C. Sutton Handle Factory, Petitioner, vs. National Labor Relations Board, Respondent.	Petition to Review Order of National Labor Relations Board.

June 11, 1958

Before Sanborn, Vogel and Matthes, Circuit Judges.

Sanborn, Circuit Judge.

I. C. Sutton, Sr., doing business as I. C. Sutton Handle Factory, at Harrison, Arkansas, has petitioned this Court for the review and reversal of an order of the National Labor Relations Board, the practical effect of which is (1) to disable the petitioner from interfering in any way with the union affiliations and activities of his employees; (2) to require the reinstatement, with back pay, of Joe Hulsey, found by the Board to have been discriminatorily discharged; and (3) to post the usual notices.

The petitioner asserts that there was no adequate evidentiary basis for the Board's findings and order. This the Board denies, and it asks that the order under review be enforced.

There is nothing unusual about this controversy. It falls within a familiar pattern, growing, as it does, out of

things that were done and things that were said during a campaign started in the spring of 1956 by the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, Local Union 2746, to organize the employees of the petitioner, among whom Joe Hulsey was the most active union advocate and proponent.

A detailed discussion of the evidence, with which the parties are entirely familiar and which can be of little interest to others, is unnecessary. It is enough to say that there was substantial evidence before the Board from which, in our opinion, it reasonably could infer that the petitioner was opposed to the unionization of his employees; that his supervisors at the plant asked questions of, and made remarks to, the employees, during the campaign, which were calculated to discourage and deter them from becoming members of the union; and that, at the very height of the union campaign, Joe Hulsey, on October 24, 1956, the day after he had mailed to the union a number of applications by employees for membership in the union, was discharged.

It is obvious to us that the questions whether the petitioner had, by interrogation, threats, or otherwise, in violation of Section 8(a)(1) of the National Labor Relations Act as amended (61 Stat. 136, 29 U.S.C., Sec. 151 *et seq.*), interfered with the rights of his employees to do as they pleased about joining or not joining the union, and whether, in violation of Section 8(a)(3) and (1) of the Act, the petitioner had discharged Joe Hulsey because of his union activities, were questions of fact for the Board, and are not questions of law for this Court.

The contention of the petitioner is that because his testimony that Hulsey was discharged "for visiting and interfering with others' work" was uncontradicted, the Board was precluded from finding that Hulsey's discharge

was motivated by his union activities. The record shows that Hulsey had been employed by the petitioner for more than three years, and that during that time no complaints had been made about his work. We are satisfied that, from the circumstances surrounding Hulsey's discharge, the Board reasonably could infer that his separation from his employment just as the crucial stage in the campaign of the union to organize the petitioner's plant had been reached, was the proximate result of his union activities. The Board, as the trier of the facts, was not compelled to accept at its face value the testimony of the petitioner, a highly interested witness, even though it was uncontradicted. See and compare *Noland* v. *Buffalo Insurance Co.*, 8 Cir., 181 F. 2d 735, 738, and cases cited. The law applicable to cases such as this has been repeatedly stated in the decisions of this Court and of Courts of Appeals of the other Circuits. This case differs in no controlling respects from *National Labor Relations Board* v. *Minnesota Mining & Manufacturing Co.*, 8 Cir., 179 F. 2d 323; *Coca-Cola Bottling Co. of St. Louis* v. *National Labor Relations Board*, 8 Cir., 195 F. 2d 955, and *National Labor Relations Board* v. *Cold Spring Granite Co.*, 8 Cir., 208 F. 2d 163.

We find nothing in the record which would justify a reversal of the order under review or a refusal by this Court to enforce it.

The request of the Board for the enforcement of its order is granted.

EXHIBIT B.

Applicable Portions of the Administrative Procedures Act, 60 Statutes 241, Federal Code Annotated, Title 5.

Federal Code Annotated, Section 1006(c): "Evidence. * * * and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record * * *."

Section 1009. Judicial Review: (e) Scope of Review: "* * * In making the foregoing determinations the court shall review the whole record or such portions thereof as may be cited by any party, * * *".